IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos.18922, 18336, 18897, 19015, 19016, 19021, 20257, 21451 and 19536 of 2002

(1) Writ Petition No.18922 of 2002

Between:

Sreeman Chandra Sekharendra Saraswathy, Junior College, Tirupati, Chittoor dist.
Rep. by its Secretary/Correspondent
B.S. Chandrasekhara Rao.

...PETITIONER

AND

1. The Government of A.P., rep. by its Secretary, Higher Education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally Hyderabad rep. by its Secretary.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of 3rd respondent herein in imposing the penalty by proceedings in Rc. No.642/E2-1/2001-02 dated 9-2-2002 for the academic year 2000-2001 and 2001-2002 and rejecting the application for sanction of additional sections by proceedings in Rc. No.011324/E4-4/2002 dated 6-7-2002 is arbitrary, illegal, without power and jurisdiction and set aside the same and consequently

compel the respondents herein to sanction 8 additional sections for the academic year 2002-2003 to the petitioner institution forthwith on par with the Govt. and aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: MR.S.S.PRASAD

(2) Writ Petition No.18336 of 2002

Between:

Sri Chaitanya Junior Kalasala, Narayanaguda, Hyderabad, rep.by its President Dr.B.Satyanarayana.

...PETITIONER

AND

1. The Government of A.P., rep.by its Secretary, Higher education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally, Hyderabad, rep.by its Secretary/
4. The Regional Inspection Officer, (Twin Cities and Ranga Reddy), Board of Intermediate Education, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of 3rd respondent herein in imposing the penalty by proceedings in RC.No.642/E2-1/2001-2002 dated 09.02.2002 for the academic years 2000-2001 and 2001-2002 and rejecting the application for sanction of additional sections by proceedings in RC.No.303/E3-1 dated 06.07.2002 as arbitrary, illegal, without power and jurisdiction and set aside the same and consequently compel the respondents herein to sanction 8 additional sections for the academic year 2002-2003 to the petitioner institution forthwith on par with the Government and aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: GP FOR HIGHER EDUCATION

(3) Writ Petition No.18897 of 2002

Between:

Sri Chaitanya Junior Kalasala, Kukatpally, Ranga Reddy District, rep.by its

President Dr.B.Satyanarayana.

...PETITIONER

AND

1. The Government of A.P., rep.by its Secretary, Higher education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally, Hyderabad, rep.by its Secretary/
4. The Regional Inspection Officer, (Twin Cities and Ranga Reddy), Board of Intermediate Education, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of 3rd respondent herein in imposing the penalty by proceedings in RC.No.642/E2-1/2001-2002 dated 09.02.2002 for the academic years 2000-2001 and 2001-2002 and rejecting the application for sanction of additional sections by proceedings in RC.No.104/E2-1/AS/2002-03 dated 06.07.2002 as arbitrary, illegal, without power and jurisdiction and set aside the same and consequently compel the respondents herein to sanction 8 additional sections for the academic year 2002-2003 to the petitioner institution forthwith on par with the Government and aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: MR.S.S.PRASAD

(4) Writ Petition No.19015 of 2002

Between:

Sri Sai Co-operative Junior College, Suryaraopeta, Vijayawada, rep.by its Secretary/Correspondent Smt.Y.Swarna Seetha.

...PETITIONER

AND

1. The Government of A.P., rep. by its Secretary, Higher Education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.

3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally Hyderabad rep. by its Secretary.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of 3rd respondent herein in imposing the penalty by proceedings in RC.No.642/E2-1/2001-2002 dated 09.02.2002 for the academic years 2000-2001 and 2001-2002 and rejecting the application for sanction of additional sections by proceedings in RC.No.5144/E12/AS/2002-03 dated 06.07.2002 as arbitrary, illegal, without power and jurisdiction and set aside the same and consequently compel the respondents herein to sanction 8 additional sections for the academic year 2002-2003 to the petitioner institution forthwith on par with the Government and aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: G.P. for Higher Education

(5) Writ Petition No.19016 of 2002

Between:

Sri Chaitanya Mahila Kalasala, Vijayawada, rep.by its Secretary/Correspondent, Dr.B.Satyanarayana.

...PETITIONER

AND

1. The Government of A.P., rep.by its Secretary, Higher education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally, Hyderabad, rep.by its Secretary/

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of 3rd respondent herein in imposing the penalty by proceedings in RC.No.642/E2-1/2001-2002 dated 09.02.2002 for the academic years 2000-2001 and rejecting the application for sanction of additional sections by proceedings in RC.No.5142/E12/AS/2002-03 dated 06.07.2002, on the file of the 3rd respondent as arbitrary, illegal, without power and jurisdiction and set aside the

same and consequently compel the respondents herein to sanction 10 additional sections for the academic year 2002-2003 to the petitioner institution forthwith on par with the Government and aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: G.P. for Higher Education

(6) Writ Petition No.19021 of 2002

Between:

Sri Chaitanya Mahila Junior Kalasala,

Chaitany;a Nagar, Poranki,

Vijayawada,represented by its President

Dr.B.Satyanarayana.

...PETITIONER

AND

1. The Government of A.P., rep.by its Secretary, Higher education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally, Hyderabad, rep.by its Secretary/

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent herein in imposing the penalty by proceedings in Rc.No.642/E2-1/2001-2002. dated 09-02-2002 for the academic years 2000-2001 and for the academic year 2001-2002 and rejecting the application for sanction of additional sections by proceedings in Rc.No.1082/E2-1/2002-2003, dated 06-07-2002 is arbitrary, illegal, without power and jurisdiction and set aside the same and consequently compel the respondents herein to sanction 9 additional sections for the academic year 2002-2003 to the petitioner institution forthwith on par with the Government and Aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: GP FOR HIGHER EDUCATION

(7 Writ Petition No.20257 of 2002

Between:

Sri Chaitanya Junior Kalasala,

Yousufguda Road, Hyderabad

Represented by its President

Dr.B.Satyanarayana.

...PETITIONER

AND

1. The Government of A.P., rep.by its Secretary, Higher education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally, Hyderabad, rep.by its Secretary.
4. The Regional Inspection Officer, (Twin Cities and Ranga Reddy), Board of Intermediate Education, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent herein in imposing the penalty by proceedings in Rc.No.72/E1 to E4/2000-2001, dated 05-01-2002 for the academic years 2000-2001 and proceedings in Rc.no.642/E2-1/2001-2002, dated 09-02-2002 for the academic year 2001-2002 and rejecting the application for sanction of additional sections by proceedings in Rc.No.303/E3-1/2002-03, dated 06-07-2002 as arbitrary, illegal, without power and jurisdiction and set aside the same and consequently compel the respondents herein to sanction 10 additional sections for the academic year 2002-2003 to the petitioner institution forthwith on par with the Government and Aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: G.P. for Higher Education.

(8) Writ Petition No.21451 of 2002

Between:

Sri Vivekananda Junior College, Ashoknagar,

Vijayawada, Krishna District,

represented by its President Dr.B.Satyanarayna.

...PETITIONER

AND

1. The Government of A.P., rep.by its Secretary, Higher education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally, Hyderabad, rep.by its Secretary.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order, or Direction, more particularly one in nature of writ of Mandamus directing the action of the 3rd respondent herein in imposing the penalty by proceedings in Rc.No.1292/E1 to E4/2000-2001, dated 05-01-2002 for the academic year 2000-2001 and rejecting the application for sanction of additional sections by proceeding in Rc.No.1292/E1-2/AS/2002-03, dated 06-07-2002 is arbitrary, illegal without power and jurisdiction and set aside the same and consequently compel the respondents herein to sanction 13 additional section for the academic year 2002-2003 to the petitioner institution forthwith on par with the Government and Aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: G.P. for Higher Education.

(9) Writ Petition No.19536 of 2002

Between:

Bharat Junior College, rep.by its President Dr.B.Satyanaraya Now being run by Shri Chaitanya Educational Committee,
Brindavan Colony, Nizampet Road,

KPHB Hyderabad-500 072.

...PETITIONER

AND

1. The Government of A.P., rep.by its Secretary, Higher education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. Board of Intermediate Education, A.P., Vidya Bhavan, Nampally, Hyderabad, rep.by its Secretary.
4. The Regional Inspection Officer, (Twin Cities and Ranga Reddy), Board of Intermediate Education, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 3rd respondent herein in imposing the penalty by proceedings in Rc.No.642/E2-1/2001-2002 dt: 9/2/2002 for the academic years 2001-2002 and proposing to reject the application for sanction of additional sections by proceedings in Rc.No.100/RIO(TC)/2002-03 dt: 17/8/2002 on the file of the 4th respondent as arbitrary, illegal, without power and jurisdiction and set aside the same and consequently compel the respondents herein to sanction 7 additional sections for the academic year 2002-2003 to the petitioner institution forthwith on par with the Govt. and aided Junior Colleges in the State.

Counsel for the Petitioner: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondents: MR.S.S.PRASAD

The Court made the following:

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COMMON ORDER:

In all these Writ Petitions, the Education Societies or Junior Colleges established by them are petitioners. All the Junior Colleges are affiliated/recognized by Andhra Pradesh Board of Intermediate Education (hereafter called 'the Board'), the third respondent herein. When the Junior Colleges were permitted to be established, the Board prescribed the maximum intake in various groups of two-year Intermediate course. Subsequently it appears in some of the cases, the maximum intake was also increased. All the petitioners allegedly made applications during the academic year 2000-2001 as well as 2001-2002 seeking permission of the Board for enhancing the maximum intake. As no orders were immediately passed, all the petitioners, admittedly, admitted students in excess of the permitted maximum intake. This led the Board to initiate action in accordance with Rules 14(7) and 14(14) of A.P. Education Institutions (Establishment, Recognition, Administration and Control of Institutions of Higher Education) Rules, 1987 ('the Rules' for brevity). The Board imposed penalty at the rate of Rs.500/- (Rupees five hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be. The petitioners did not pay these amounts. Be that as it is, again all the petitioners sought permission for sanction of additional seats for the academic year 2002-2003. Such requests were rejected by the Board only on the ground that the petitioners flouted the relevant Rules and failed to pay the penalty imposed for the academic years 2001-2002. These orders are assailed in all the Writ Petitions. This Court while admitting the matters, sanctioned permission subject to the petitioners depositing one third or half of the penalty imposed. This Court also made clear that the amount deposited will be subject to further orders in the Writ Petitions.

When these matters were called, learned counsel for the petitioners and the learned standing counsel for the Board brought to my notice that this Court in an unreported judgment being W.P.No.21495 of 2002, dated 11.11.2002 disposed of similar Writ

Petition setting aside the orders of the Board and directing the Board to issue notice to the petitioners before any action detriment to the petitioners is taken. The operative portion of the order passed by the Court reads as under.

The orders which are set aside constitute the basis for rejection of the application for additional sections for the current academic year. Since the basis itself has gone, the consequential order has also to follow. Accordingly, the order dated 06.07.2002 is also set aside. It is however made clear that this order cannot be construed as conferring any right or legality on the admissions, if any made by the petitioner in excess of the sanctioned strength for the present academic year or for the previous academic years. It shall be open to the respondents to issue a notice to the petitioner to respond within a specified time. If the petitioner responds within the specified time, the response shall be taken into account and appropriate orders shall be passed within two weeks from the date of submission of the application. The question of consideration of the application of the petitioner for additional sections for the current academic year would only depend on the outcome of the proceedings relating to the previous academic years.

These Writ Petitions are also disposed of in the above terms directing the Board to pass appropriate orders within a period of two weeks from the date of receipt of the applications that may be filed by the petitioners pursuant to the show cause notice issued by the Board. The amounts paid by the petitioners shall abide by the final decision of the Board in that regard.

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(V.V.S.RAO, J)

17th September 2004

NOTE: CC by 24.09.2004

B/O

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, Government of A.P., Higher Education Department, Secretariat Buildings, Hyderabad.
2. The Director, Intermediate Education, Government of A.P., Hyderabad.
3. The Secretary, Board of Intermediate Education, A.P., Vidya Bhavan, Nampally Hyderabad.
4. The Regional Inspection Officer, (Twin Cities and Ranga Reddy), Board of Intermediate Education, Hyderabad.
5. Two CCs to G.P. for Higher Education, High Court Buildings, Hyderabad (OUT).
6. Two CD copies.